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Attorneys for Defendant APPLE INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EPIC GAMES, INC.

Plaintiff, Counter-defendant
v.

APPLE INC.,

Defendant, Counterclaimant

Case No. 4:20-cv-05640-YGR

**DECLARATION OF MARK A. PERRY IN
SUPPORT OF APPLE INC.'S
ADMINISTRATIVE MOTION TO SEAL**

The Honorable Thomas S. Hixson

1 I, Mark A. Perry, hereby declare as follows:

2 1. I am an attorney licensed to practice in the State of California, and a member of the Bar
3 of this Court. I am a partner at the law firm Weil, Gotshal & Manges LLP, counsel of record for Apple
4 Inc. (“Apple”) in this case. I am familiar with Apple’s treatment of highly proprietary and confidential
5 information based on my personal experience representing Apple. I have personal knowledge of the
6 facts stated below and, if called as a witness, would testify competently thereto. I submit this declaration
7 in support of Apple’s Administrative Motion to Seal (the “Motion”).¹

8 2. I am aware that the law of this Circuit allows information to be filed under seal for good
9 cause or in certain compelling circumstances. I also understand that courts routinely seal filings where
10 documents include a company’s trade secrets, internal codenames, confidential research and
11 development, or other commercially sensitive information. I understand that this Court has broad
12 latitude to prevent the public disclosure of these categories of commercially sensitive information.

13 3. Apple operates in an intensely competitive marketplace. Apple has serious and legitimate
14 concerns that competitors will be quick to capitalize on any release of Apple’s highly sensitive
15 information in order to gain competitive advantage. As such, Apple takes extensive measures to protect
16 the confidentiality of its information.

17 4. Apple has carefully reviewed the Joint Status Report and now proposes to partially seal
18 the document and information therein that, if disclosed, could harm Apple’s competitive business
19 interests.

20 5. Apple seeks to seal this information because disclosure of this competitively-sensitive
21 information regarding its business codenames regarding ongoing confidential projects, which Apple
22 intended to keep confidential, could put Apple at a competitive disadvantage and thus cause it economic
23 harm. Public disclosure would reveal Apple’s internal business decision-making, which could be used
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26 ¹ Courts in the Ninth Circuit routinely grant motions to seal based on declarations of counsel. *See*,
27 *e.g.*, *In re Apple Securities Litigation*, 19-cv-02033-YGR, Dkt. 223 (N.D. Cal.); *In re Qualcomm Litig.*,
28 No. 17-cv-00108-GPC, Dkt. 398-1 (S.D. Cal. Mar. 26, 2018); *Avago Techs. U.S. Inc. v. Iptronics Inc.*,
No. 10-cv-02863-EJD, Dkt. 544 (N.D. Cal. Apr. 3, 2015); *Cisco Sys., Inc. v. OpenTV Inc.*, No. 13-cv-
00282-EJD, Dkt. 76 (N.D. Cal. Oct. 8, 2013). If the Court deems this declaration insufficient, Apple
respectfully requests that it be permitted to file a further declaration supporting filing under seal.

1 by competitors to gain an unfair competitive advantage over Apple.

2 6. Apple has narrowly-tailored its sealing request as to maximize the public's access to court
3 documents without jeopardizing Apple's business interests. The remainder of the Joint Status Report
4 remains unredacted.

5 7. Below is a chart detailing the portion of the Joint Status Report that is sealable for the
6 reasons explained herein, as well as in Apple's Motion.

| 7 Portion of Document Sought to be Sealed | Document Title | Reason to Seal |
|--|---------------------|---|
| 8 Page 4, second to last row in 9 search string chart, beginning 10 with first word in that row and 11 including the next three words, ending before "OR dma." | Joint Status Report | Reflects non-public Apple project codenames. |

12 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
13 correct. Executed this 27th day of November 2024, in Washington, D.C.

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15 Dated: November 27, 2024

Respectfully submitted,

17 By: /s/ Mark A. Perry

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